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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 151215999-6960-02]

RIN 0648-XG691

Fisheries of the Northeastern United States; Atlantic Herring Fishery; 2018 River Herring and Shad Catch Cap Reached for Midwater Trawl Vessels in the Cape Cod Catch Cap Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is reducing the Atlantic herring possession limit for vessels fishing with midwater trawl gear in the Cape Cod Catch Cap Closure Area, based on a projection that the prescribed catch cap for that area has been reached. This action is necessary to comply with the regulations implementing the Atlantic Herring Fishery Management Plan and is intended to limit the harvest of river herring and shad in the Cape Cod Catch Cap Area.

DATES: Effective 00:01 hr local time, December 21, 2018, through December 31, 2018.

FOR FURTHER INFORMATION CONTACT: Daniel Luers, Fishery Management Specialist, (978) 282-8457.

SUPPLEMENTARY INFORMATION: Regulations governing the Atlantic herring fishery can be found at 50 CFR part 648, including requirements for setting annual catch cap allocations for river herring and shad. NMFS set the 2018 catch cap in the Cape Cod Catch Cap Area at

32.4 mt. NMFS established this value in the 2016 through 2018 herring specifications (81 FR 75731, November 1, 2016).

The NMFS Administrator of the Greater Atlantic Region (Regional Administrator) monitors the herring fishery in each of the catch cap areas based on vessel and dealer reports, state data, and other available information. The regulations at § 648.201 require that when the Regional Administrator projects that river herring and shad catch will reach 95 percent of a catch cap for vessels fishing with a specific gear type in a specified catch cap area, NMFS must prohibit, through notification in the **Federal Register**, vessels fishing with that gear type from fishing for, catching, possessing, transferring, receiving, or landing more than 2,000 lb (907.2 kg) of herring per trip or calendar day in or from that specified catch cap closure area for the remainder of the fishing year.

The Regional Administrator has determined, based on dealer reports and other available information, that herring midwater trawl vessels will have caught 95 percent of the river herring and shad catch cap allocated to that gear type in the Cape Cod Catch Cap Area by December 21, 2018. Therefore, effective 00:01 hr local time, December 21, 2018, through December 31, 2018, vessels fishing with midwater trawl gear may not fish for, catch, possess, transfer, or land more than 2,000 lb (907.2 kg) of herring per trip or calendar day, in or from the Cape Cod Catch Cap Closure Area. Midwater trawl vessels that have entered port before 00:01 hr local time, December 21, 2018, may land and sell more than 2,000 lb (907.2 kg) of herring from the Cape Cod Catch Cap Closure Area from that trip. Midwater trawl vessels may transit through the Cape Cod Catch Cap Closure Area with more than 2,000 lb (907.2 kg) of herring on board, provided all herring in excess of 2,000 lb (907.2 kg) was caught outside of this area and all

fishing gear is stowed and not available for immediate use as defined by 50 CFR 648.2.

This action also prohibits federally permitted dealers from purchasing herring from federally permitted herring vessels that used midwater trawl gear to harvest more than 2,000 lb (907.2 kg) of herring from the Cape Cod Catch Cap Closure Area through 24:00 hr local time, December 31, 2018, unless the vessel enters port before 00:01 local time on December 21, 2018.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

NMFS finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest and impracticable. Further, in accordance with 5 U.S.C. 553(d)(3), NMFS finds good cause to waive the 30-day delayed effectiveness. NMFS is required by Federal regulation to immediately put in place a 2,000-lb (907.2-kg) herring trip limit for Cape Cod Catch Cap Closure Area through December 31, 2018. This action restricts the catch of herring in the Cape Cod Catch Cap Closure Area for the remainder of the fishing year. Once data become available projecting 95 percent of the river herring/shad quota will be caught, regulations at § 648.201(a)(4)(ii) require NMFS to implement a 2,000-lb (907.2-kg) herring trip and calendar day possession limit to ensure that herring vessels fishing with midwater trawl gear do not exceed the quota allocated to that gear type in the Cape Cod Catch Cap Area. Federally permitted dealers are also prohibited from purchasing herring from vessels that used midwater trawl gear to harvest more than 2,000 lb (907.2 kg) of herring from the Cape Cod Catch Cap Closure Area. High-volume catch and landings in this fishery increase catch totals relative to catch caps quickly. If implementation of

this closure is delayed to solicit prior public comment, the midwater trawl catch cap for the Cape Cod Catch Cap Closure Area for this fishing year will likely be exceeded, thereby undermining the conservation objectives of the Atlantic Herring Fishery Management Plan. The public expects these actions to occur in a timely way consistent with the fishery management plan's objectives.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 19, 2018.

Karen H. Abrams,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

[FR Doc. 2018-27845 Filed: 12/19/2018 4:15 pm; Publication Date: 12/26/2018]